

---

**SUBSTITUTE HOUSE BILL 1569**

---

**State of Washington**

**58th Legislature**

**2003 Regular Session**

**By** House Committee on State Government (originally sponsored by Representatives Armstrong, Haigh, Nixon, Miloscia, Tom, McDermott, Shabro and Benson)

READ FIRST TIME 02/25/03.

1       AN ACT Relating to the confidentiality of information supplied by  
2 a bidder on a public bid; amending RCW 39.04.100; and reenacting and  
3 amending RCW 42.17.310.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5       **Sec. 1.** RCW 39.04.100 and 1923 c 183 s 9 are each amended to read  
6 as follows:

7       Except as provided in RCW 42.17.310, all plans, specifications,  
8 estimates, and copies of accounts or records and all certificates  
9 attached thereto shall, when filed, become public records and shall at  
10 all reasonable times be subject to public inspection.

11       Certified copies of any estimate, account or record shall be  
12 furnished by the officer having the custody thereof to any person on  
13 demand and the payment of the legal fees for making and certifying the  
14 same.

15       **Sec. 2.** RCW 42.17.310 and 2002 c 335 s 1, 2002 c 224 s 2, 2002 c  
16 205 s 4, and 2002 c 172 s 1 are each reenacted and amended to read as  
17 follows:

18       (1) The following are exempt from public inspection and copying:

1 (a) Personal information in any files maintained for students in  
2 public schools, patients or clients of public institutions or public  
3 health agencies, or welfare recipients.

4 (b) Personal information in files maintained for employees,  
5 appointees, or elected officials of any public agency to the extent  
6 that disclosure would violate their right to privacy.

7 (c) Information required of any taxpayer in connection with the  
8 assessment or collection of any tax if the disclosure of the  
9 information to other persons would (i) be prohibited to such persons by  
10 RCW 84.08.210, 82.32.330, 84.40.020, or 84.40.340 or (ii) violate the  
11 taxpayer's right to privacy or result in unfair competitive  
12 disadvantage to the taxpayer.

13 (d) Specific intelligence information and specific investigative  
14 records compiled by investigative, law enforcement, and penology  
15 agencies, and state agencies vested with the responsibility to  
16 discipline members of any profession, the nondisclosure of which is  
17 essential to effective law enforcement or for the protection of any  
18 person's right to privacy.

19 (e) Information revealing the identity of persons who are witnesses  
20 to or victims of crime or who file complaints with investigative, law  
21 enforcement, or penology agencies, other than the public disclosure  
22 commission, if disclosure would endanger any person's life, physical  
23 safety, or property. If at the time a complaint is filed the  
24 complainant, victim or witness indicates a desire for disclosure or  
25 nondisclosure, such desire shall govern. However, all complaints filed  
26 with the public disclosure commission about any elected official or  
27 candidate for public office must be made in writing and signed by the  
28 complainant under oath.

29 (f) Test questions, scoring keys, and other examination data used  
30 to administer a license, employment, or academic examination.

31 (g) Except as provided by chapter 8.26 RCW, the contents of real  
32 estate appraisals, made for or by any agency relative to the  
33 acquisition or sale of property, until the project or prospective sale  
34 is abandoned or until such time as all of the property has been  
35 acquired or the property to which the sale appraisal relates is sold,  
36 but in no event shall disclosure be denied for more than three years  
37 after the appraisal.

1 (h) Valuable formulae, designs, drawings, computer source code or  
2 object code, and research data obtained by any agency within five years  
3 of the request for disclosure when disclosure would produce private  
4 gain and public loss.

5 (i) Preliminary drafts, notes, recommendations, and intra-agency  
6 memorandums in which opinions are expressed or policies formulated or  
7 recommended except that a specific record shall not be exempt when  
8 publicly cited by an agency in connection with any agency action.

9 (j) Records which are relevant to a controversy to which an agency  
10 is a party but which records would not be available to another party  
11 under the rules of pretrial discovery for causes pending in the  
12 superior courts.

13 (k) Records, maps, or other information identifying the location of  
14 archaeological sites in order to avoid the looting or depredation of  
15 such sites.

16 (l) Any library record, the primary purpose of which is to maintain  
17 control of library materials, or to gain access to information, which  
18 discloses or could be used to disclose the identity of a library user.

19 (m) Financial information supplied by or on behalf of a person,  
20 firm, or corporation for the purpose of qualifying to submit a bid or  
21 proposal for (i) a ferry system construction or repair contract as  
22 required by RCW 47.60.680 through 47.60.750 or (ii) highway  
23 construction or improvement as required by RCW 47.28.070.

24 (n) Railroad company contracts filed prior to July 28, 1991, with  
25 the utilities and transportation commission under RCW 81.34.070, except  
26 that the summaries of the contracts are open to public inspection and  
27 copying as otherwise provided by this chapter.

28 (o) Financial and commercial information and records supplied by  
29 private persons pertaining to export services provided pursuant to  
30 chapter 43.163 RCW and chapter 53.31 RCW, and by persons pertaining to  
31 export projects pursuant to RCW 43.23.035.

32 (p) Financial disclosures filed by private vocational schools under  
33 chapters 28B.85 and 28C.10 RCW.

34 (q) Records filed with the utilities and transportation commission  
35 or attorney general under RCW 80.04.095 that a court has determined are  
36 confidential under RCW 80.04.095.

37 (r) Financial and commercial information and records supplied by  
38 businesses or individuals during application for loans or program

1 services provided by chapters 43.163, 43.160, 43.330, and 43.168 RCW,  
2 or during application for economic development loans or program  
3 services provided by any local agency.

4 (s) Membership lists or lists of members or owners of interests of  
5 units in timeshare projects, subdivisions, camping resorts,  
6 condominiums, land developments, or common-interest communities  
7 affiliated with such projects, regulated by the department of  
8 licensing, in the files or possession of the department.

9 (t) All applications for public employment, including the names of  
10 applicants, resumes, and other related materials submitted with respect  
11 to an applicant.

12 (u) The residential addresses or residential telephone numbers of  
13 employees or volunteers of a public agency which are held by any public  
14 agency in personnel records, public employment related records, or  
15 volunteer rosters, or are included in any mailing list of employees or  
16 volunteers of any public agency.

17 (v) The residential addresses and residential telephone numbers of  
18 the customers of a public utility contained in the records or lists  
19 held by the public utility of which they are customers, except that  
20 this information may be released to the division of child support or  
21 the agency or firm providing child support enforcement for another  
22 state under Title IV-D of the federal social security act, for the  
23 establishment, enforcement, or modification of a support order.

24 (w)(i) The federal social security number of individuals governed  
25 under chapter 18.130 RCW maintained in the files of the department of  
26 health, except this exemption does not apply to requests made directly  
27 to the department from federal, state, and local agencies of  
28 government, and national and state licensing, credentialing,  
29 investigatory, disciplinary, and examination organizations; (ii) the  
30 current residential address and current residential telephone number of  
31 a health care provider governed under chapter 18.130 RCW maintained in  
32 the files of the department, if the provider requests that this  
33 information be withheld from public inspection and copying, and  
34 provides to the department an accurate alternate or business address  
35 and business telephone number. On or after January 1, 1995, the  
36 current residential address and residential telephone number of a  
37 health care provider governed under RCW 18.130.040 maintained in the  
38 files of the department shall automatically be withheld from public

1 inspection and copying unless the provider specifically requests the  
2 information be released, and except as provided for under RCW  
3 42.17.260(9).

4 (x) Information obtained by the board of pharmacy as provided in  
5 RCW 69.45.090.

6 (y) Information obtained by the board of pharmacy or the department  
7 of health and its representatives as provided in RCW 69.41.044,  
8 69.41.280, and 18.64.420.

9 (z) Financial information, business plans, examination reports, and  
10 any information produced or obtained in evaluating or examining a  
11 business and industrial development corporation organized or seeking  
12 certification under chapter 31.24 RCW.

13 (aa) Financial and commercial information supplied to the state  
14 investment board by any person when the information relates to the  
15 investment of public trust or retirement funds and when disclosure  
16 would result in loss to such funds or in private loss to the providers  
17 of this information.

18 (bb) Financial and valuable trade information under RCW 51.36.120.

19 (cc) Client records maintained by an agency that is a domestic  
20 violence program as defined in RCW 70.123.020 or 70.123.075 or a rape  
21 crisis center as defined in RCW 70.125.030.

22 (dd) Information that identifies a person who, while an agency  
23 employee: (i) Seeks advice, under an informal process established by  
24 the employing agency, in order to ascertain his or her rights in  
25 connection with a possible unfair practice under chapter 49.60 RCW  
26 against the person; and (ii) requests his or her identity or any  
27 identifying information not be disclosed.

28 (ee) Investigative records compiled by an employing agency  
29 conducting a current investigation of a possible unfair practice under  
30 chapter 49.60 RCW or of a possible violation of other federal, state,  
31 or local laws prohibiting discrimination in employment.

32 (ff) Business related information protected from public inspection  
33 and copying under RCW 15.86.110.

34 (gg) Financial, commercial, operations, and technical and research  
35 information and data submitted to or obtained by the clean Washington  
36 center in applications for, or delivery of, program services under  
37 chapter 70.95H RCW.

1 (hh) Information and documents created specifically for, and  
2 collected and maintained by a quality improvement committee pursuant to  
3 RCW 43.70.510 or 70.41.200, or by a peer review committee under RCW  
4 4.24.250, regardless of which agency is in possession of the  
5 information and documents.

6 (ii) Personal information in files maintained in a data base  
7 created under RCW 43.07.360.

8 (jj) Financial and commercial information requested by the public  
9 stadium authority from any person or organization that leases or uses  
10 the stadium and exhibition center as defined in RCW 36.102.010.

11 (kk) Names of individuals residing in emergency or transitional  
12 housing that are furnished to the department of revenue or a county  
13 assessor in order to substantiate a claim for property tax exemption  
14 under RCW 84.36.043.

15 (ll) The names, residential addresses, residential telephone  
16 numbers, and other individually identifiable records held by an agency  
17 in relation to a vanpool, carpool, or other ride-sharing program or  
18 service. However, these records may be disclosed to other persons who  
19 apply for ride-matching services and who need that information in order  
20 to identify potential riders or drivers with whom to share rides.

21 (mm) The personally identifying information of current or former  
22 participants or applicants in a paratransit or other transit service  
23 operated for the benefit of persons with disabilities or elderly  
24 persons.

25 (nn) The personally identifying information of persons who acquire  
26 and use transit passes and other fare payment media including, but not  
27 limited to, stored value smart cards and magnetic strip cards, except  
28 that an agency may disclose this information to a person, employer,  
29 educational institution, or other entity that is responsible, in whole  
30 or in part, for payment of the cost of acquiring or using a transit  
31 pass or other fare payment media, or to the news media when reporting  
32 on public transportation or public safety. This information may also  
33 be disclosed at the agency's discretion to governmental agencies or  
34 groups concerned with public transportation or public safety.

35 (oo) Proprietary financial and commercial information that the  
36 submitting entity, with review by the department of health,  
37 specifically identifies at the time it is submitted and that is  
38 provided to or obtained by the department of health in connection with

1 an application for, or the supervision of, an antitrust exemption  
2 sought by the submitting entity under RCW 43.72.310. If a request for  
3 such information is received, the submitting entity must be notified of  
4 the request. Within ten business days of receipt of the notice, the  
5 submitting entity shall provide a written statement of the continuing  
6 need for confidentiality, which shall be provided to the requester.  
7 Upon receipt of such notice, the department of health shall continue to  
8 treat information designated under this section as exempt from  
9 disclosure. If the requester initiates an action to compel disclosure  
10 under this chapter, the submitting entity must be joined as a party to  
11 demonstrate the continuing need for confidentiality.

12 (pp) Records maintained by the board of industrial insurance  
13 appeals that are related to appeals of crime victims' compensation  
14 claims filed with the board under RCW 7.68.110.

15 (qq) Financial and commercial information supplied by or on behalf  
16 of a person, firm, corporation, or entity under chapter 28B.95 RCW  
17 relating to the purchase or sale of tuition units and contracts for the  
18 purchase of multiple tuition units.

19 (rr) Any records of investigative reports prepared by any state,  
20 county, municipal, or other law enforcement agency pertaining to sex  
21 offenses contained in chapter 9A.44 RCW or sexually violent offenses as  
22 defined in RCW 71.09.020, which have been transferred to the Washington  
23 association of sheriffs and police chiefs for permanent electronic  
24 retention and retrieval pursuant to RCW 40.14.070(2)(b).

25 (ss) Credit card numbers, debit card numbers, electronic check  
26 numbers, card expiration dates, or bank or other financial account  
27 numbers supplied to an agency for the purpose of electronic transfer of  
28 funds, except when disclosure is expressly required by law.

29 (tt) Financial information, including but not limited to account  
30 numbers and values, and other identification numbers supplied by or on  
31 behalf of a person, firm, corporation, limited liability company,  
32 partnership, or other entity related to an application for a liquor  
33 license, gambling license, or lottery retail license.

34 (uu) Records maintained by the employment security department and  
35 subject to chapter 50.13 RCW if provided to another individual or  
36 organization for operational, research, or evaluation purposes.

37 (vv) Individually identifiable information received by the work

1 force training and education coordinating board for research or  
2 evaluation purposes.

3 (ww) Those portions of records assembled, prepared, or maintained  
4 to prevent, mitigate, or respond to criminal terrorist acts, which are  
5 acts that significantly disrupt the conduct of government or of the  
6 general civilian population of the state or the United States and that  
7 manifest an extreme indifference to human life, the public disclosure  
8 of which would have a substantial likelihood of threatening public  
9 safety, consisting of:

10 (i) Specific and unique vulnerability assessments or specific and  
11 unique response or deployment plans, including compiled underlying data  
12 collected in preparation of or essential to the assessments, or to the  
13 response or deployment plans; and

14 (ii) Records not subject to public disclosure under federal law  
15 that are shared by federal or international agencies, and information  
16 prepared from national security briefings provided to state or local  
17 government officials related to domestic preparedness for acts of  
18 terrorism.

19 (xx) Commercial fishing catch data from logbooks required to be  
20 provided to the department of fish and wildlife under RCW 77.12.047,  
21 when the data identifies specific catch location, timing, or  
22 methodology and the release of which would result in unfair competitive  
23 disadvantage to the commercial fisher providing the catch data.  
24 However, this information may be released to government agencies  
25 concerned with the management of fish and wildlife resources.

26 (yy) Sensitive wildlife data obtained by the department of fish and  
27 wildlife. However, sensitive wildlife data may be released to  
28 government agencies concerned with the management of fish and wildlife  
29 resources. Sensitive wildlife data includes:

30 (i) The nesting sites or specific locations of endangered species  
31 designated under RCW 77.12.020, or threatened or sensitive species  
32 classified by rule of the department of fish and wildlife;

33 (ii) Radio frequencies used in, or locational data generated by,  
34 telemetry studies; or

35 (iii) Other location data that could compromise the viability of a  
36 specific fish or wildlife population, and where at least one of the  
37 following criteria are met:

38 (A) The species has a known commercial or black market value;

1 (B) There is a history of malicious take of that species; or

2 (C) There is a known demand to visit, take, or disturb, and the  
3 species behavior or ecology renders it especially vulnerable or the  
4 species has an extremely limited distribution and concentration.

5 (zz) The personally identifying information of persons who acquire  
6 recreational licenses under RCW 77.32.010 or commercial licenses under  
7 chapter 77.65 or 77.70 RCW, except name, address of contact used by the  
8 department, and type of license, endorsement, or tag. However, the  
9 department of fish and wildlife may disclose personally identifying  
10 information to:

11 (i) Government agencies concerned with the management of fish and  
12 wildlife resources;

13 (ii) The department of social and health services, child support  
14 division, and to the department of licensing in order to implement RCW  
15 77.32.014 and 46.20.291; and

16 (iii) Law enforcement agencies for the purpose of firearm  
17 possession enforcement under RCW 9.41.040.

18 (aaa)(i) Discharge papers of a veteran of the armed forces of the  
19 United States filed at the office of the county auditor before July 1,  
20 2002, that have not been commingled with other recorded documents.  
21 These records will be available only to the veteran, the veteran's next  
22 of kin, a deceased veteran's properly appointed personal representative  
23 or executor, a person holding that veteran's general power of attorney,  
24 or to anyone else designated in writing by that veteran to receive the  
25 records.

26 (ii) Discharge papers of a veteran of the armed forces of the  
27 United States filed at the office of the county auditor before July 1,  
28 2002, that have been commingled with other records, if the veteran has  
29 recorded a "request for exemption from public disclosure of discharge  
30 papers" with the county auditor. If such a request has been recorded,  
31 these records may be released only to the veteran filing the papers,  
32 the veteran's next of kin, a deceased veteran's properly appointed  
33 personal representative or executor, a person holding the veteran's  
34 general power of attorney, or anyone else designated in writing by the  
35 veteran to receive the records.

36 (iii) Discharge papers of a veteran filed at the office of the  
37 county auditor after June 30, 2002, are not public records, but will be  
38 available only to the veteran, the veteran's next of kin, a deceased

1 veteran's properly appointed personal representative or executor, a  
2 person holding the veteran's general power of attorney, or anyone else  
3 designated in writing by the veteran to receive the records.

4 (iv) For the purposes of this subsection (1)(aaa), next of kin of  
5 deceased veterans have the same rights to full access to the record.  
6 Next of kin are the veteran's widow or widower who has not remarried,  
7 son, daughter, father, mother, brother, and sister.

8 (bbb) Those portions of records containing specific and unique  
9 vulnerability assessments or specific and unique emergency and escape  
10 response plans at a city, county, or state adult or juvenile  
11 correctional facility, the public disclosure of which would have a  
12 substantial likelihood of threatening the security of a city, county,  
13 or state adult or juvenile correctional facility or any individual's  
14 safety.

15 (ccc) Information compiled by school districts or schools in the  
16 development of their comprehensive safe school plans pursuant to RCW  
17 28A.320.125, to the extent that they identify specific vulnerabilities  
18 of school districts and each individual school.

19 (ddd) Information regarding the infrastructure and security of  
20 computer and telecommunications networks, consisting of security  
21 passwords, security access codes and programs, access codes for secure  
22 software applications, security and service recovery plans, security  
23 risk assessments, and security test results to the extent that they  
24 identify specific system vulnerabilities.

25 (eee) Trade secrets, as defined in RCW 19.108.010, or other  
26 proprietary information submitted by a bidder, offeror, or contractor  
27 in connection with a public works project as defined in chapter 39.04  
28 RCW if the bidder, offeror, or contractor specifically states in  
29 writing the reasons why protection is necessary, and identifies the  
30 data or materials to be protected.

31 (2) Except for information described in subsection (1)(c)(i) of  
32 this section and confidential income data exempted from public  
33 inspection pursuant to RCW 84.40.020, the exemptions of this section  
34 are inapplicable to the extent that information, the disclosure of  
35 which would violate personal privacy or vital governmental interests,  
36 can be deleted from the specific records sought. No exemption may be  
37 construed to permit the nondisclosure of statistical information not  
38 descriptive of any readily identifiable person or persons.

1           (3) Inspection or copying of any specific records exempt under the  
2 provisions of this section may be permitted if the superior court in  
3 the county in which the record is maintained finds, after a hearing  
4 with notice thereof to every person in interest and the agency, that  
5 the exemption of such records is clearly unnecessary to protect any  
6 individual's right of privacy or any vital governmental function.

7           (4) Agency responses refusing, in whole or in part, inspection of  
8 any public record shall include a statement of the specific exemption  
9 authorizing the withholding of the record (or part) and a brief  
10 explanation of how the exemption applies to the record withheld.

--- END ---